

Appl. N . 09/934,773
Amdt. dated April 22, 2004
Amendment under 37 CFR 1.116 Expedited Procedure

PATENT

REMARKS

With entry of the current amendment, claim 99 has been cancelled and new claims 100-102 have been added. Claims 1-52, 54, 55, and 63-86 were previously cancelled. Accordingly, claims 53, 56-62, 87-98, and 100-102 are currently pending.

In order to expedite prosecution, claim 99 has been cancelled herein. Applicants specifically reserve the right to pursue all the subject matter of the unamended claims in one or more subsequent applications.

Rejections

For convenience, the rejections will be addressed in the order presented in the Office Action mailed December 31, 2003.

Claims 53, 56-62, and 87-88 were rejected as allegedly unpatentable for obviousness-type double patenting over claims 1-3 of U.S. Patent No. 6,258,939 in view of Vitetta and Queen.

A terminal disclaimer and Certificate under 37 C.F.R. § 3.73(b) is submitted with this Amendment. The terminal disclaimer disclaims the terminal portion of the term of a patent granted on the instant application over commonly owned U.S. Patent 6,258,939.

Applicants have requested correction of the inventorship in the present application to delete Douglas C. Saffran and Aya Jakobovits. The correct inventors were named in the application as filed. Douglas C. Saffran and Aya Jakobovits were properly named inventors in the application as filed. However, due to cancellation of subject matter, the invention of Douglas C. Saffran and Aya Jakobovits is no longer claimed in this application. Thus, U.S. Patent No. 6,258,939 and the subject application are commonly owned by the Regents of the University of California.

Applicants note that the filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. See, MPEP §804.02.

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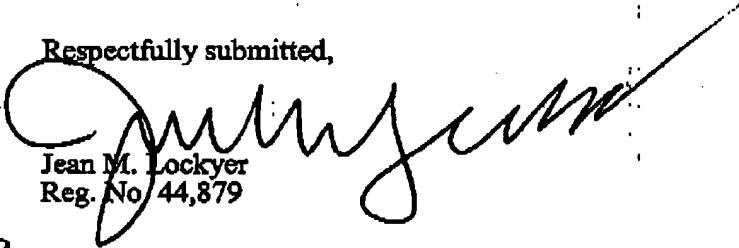
Claim 99 was rejected as allegedly anticipated by Au-Young (U.S. Patent No. 5,856,136). The rejection is moot in view of the cancellation of the claim.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,


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